

Omnibus Implementing Regulation on Taxation

Omnibus Implementing Regulation on Taxation ^{p1}

1. Income Tax Aspects ^{p1}

2. VAT Aspects ^{p2}

3. General Tax Aspects ^{p3}

4. Transitional Rules ^{p4}

Government Regulation (GR) No.9 Year 2021 (GR-9) has been issued as one of the implementing regulations of the Omnibus Law. GR-9 deals with taxation issues under the Omnibus Law and is effective from 2 February 2021.

Please note that many aspects of the tax law changes under the Omnibus Law are also subject to further elaboration by Ministry of Finance (MoF) regulations, hence not all of the implementing rules are covered in this GR-9.

Some of the changes in GR-9 serve as new rules and changes to parts of existing regulations¹²³, while some are merely an alignment of the changes under the Omnibus Law without adding new rules. The discussion in this Omnibus Flash focuses on the key changes which provide additional rules.

1. Income Tax Aspects

Withholding tax on bond interest paid to non-residents

Under the Omnibus Law, the government may reduce the withholding tax rate for interest paid to non-residents to be further directed under an applicable government regulation. GR-9 has done that by setting a lower interest rate of 10% (or the applicable tax treaty rate) for interest paid on bonds. This lowered rate applies to all types income treated as bond interest, including capital gain (i.e. premium and discount) enjoyed upon disposal, and will be effective after six months of the effective date of this GR (i.e. lower rate goes into effect on 2 August 2021). Prior to this effective date, the existing GR-16⁴ still applies for the interest treatment on bond transactions.

¹ GR No.94 Year 2010 on Income Tax as amended by GR No.45 Year 2019

² GR No.1 Year 2012 on Value Added Tax (VAT)

³ GR No.74 Year 2011 on General Tax Provisions

⁴ GR No.16 Year 2009 (GR-16) as lastly amended by GR No. 55 Year 2019

Domestic dividend exemption

The Omnibus Law provides that dividends paid by an Indonesian company is not taxable in the hands of the recipient if they are:

- Domestic tax resident individual taxpayers who reinvest the dividend income in Indonesia within a certain period; or
- Domestic tax resident corporate taxpayers.

The Indonesian company distributing the dividends no longer will have a withholding tax requirement (i.e. does not need to withhold tax from such dividends even in the case of individuals that might not meet the reinvestment condition). However, if the individual taxpayer does not meet the reinvestment requirements, the dividend will be subject to income tax which must then be settled by the individual. Further stipulation on the re-investment and self-payment mechanisms will be governed in a separate MoF regulation.

2. VAT Aspects

Consignment goods

The delivery of consignment goods by a VATable Entrepreneur (*Pengusaha Kena Pajak/ PKP*) is no longer included as a VATable delivery under the Omnibus Law. GR-9 emphasises that the delivery of movable goods from consignor to consignee and from consignee to the actual buyer will still be subject to VAT and clarifies that the change is only on the timing. Under the regulation, the timing for these types of transfers will be as follows:

- a. For consignor, VAT is due when the price of the goods is recognised as receivable/income in accordance with the generally accepted accounting principles that are applied consistently or when the commercial invoice is issued by the consignor PKP. In the previous provision in the VAT Law, VAT is already due when the goods are delivered to the consignee, although no actual sales had yet been made.
- b. For consignee, VAT is due when:
 - The goods are directly delivered to the buyer or other third party for and on behalf of the buyer;
 - The goods are directly delivered to the goods recipient as a free gift or own-use, or upon head-office to branch (and vice versa) or interbranch delivery;
 - The goods are delivered to the courier service or freight company; or
 - The price of the goods is recognised as receivable/income in accordance with the generally accepted accounting principles that are applied consistently or when the commercial invoice is issued by consignee PKP.

VAT obligation for retailers (*Pedagang Eceran*)

GR-9 defines a retailer as a PKP who delivers VATable goods/services to the buyers/service recipients who are end-consumers, including the delivery which is conducted via an e-commerce platform. This definition is simpler while potentially wider than the previous scope which, among others, required cash-and-carry transactions that are not preceded with a purchase order, offering letter, or a contract.

Retailers may appoint a third party as VAT Collector to conduct their VAT compliance obligations. The third-party appointment and VAT compliance mechanism will be governed in a separate MoF regulation.

Inbreng (contribution in kind)

Under the Omnibus Law, the transfer of taxable goods for the purpose of a contribution to capital in exchange for shares in the company the assets are being transferred to, or a so-called *inbreng*, is not VATable provided that the transferor and the transferee are both PKPs. GR-9 elaborates that if the *inbreng* does not meet the said requirements, VAT will still be due when the *inbreng* is agreed or stipulated in the *inbreng* agreement or the *inbreng* deed is signed by the notary.

3. General Tax Aspects

Bookkeeping obligations for certain individual taxpayers

Under the KUP Law, individuals who carry out business or freelance activities must conduct bookkeeping, unless they are allowed to use a deemed method to calculate net income and taxes. Individuals not carrying out business or freelance activities, or those allowed to use a deemed method to calculate taxes are not required to conduct bookkeeping but required to conduct “recording” (*pencatatan*).

Although not mandated in the Omnibus Law, GR-9 adds individual taxpayers who meet certain criteria into the scope of taxpayers who are not required to conduct bookkeeping but required to conduct recording. The criteria will be governed in a separate MoF regulation, and will consider at least the business capital amount, gross turnover, and the establishment date of the business. Considering the default position under the KUP Law, this new provision may provide leniency in terms of bookkeeping obligations for individual taxpayers carrying out business that meet the criteria.

Digitalisation in tax administrative processes

GR-9 introduces two new articles to govern the digitalisation of documents and signatures in the tax administrative processes for both taxpayers and tax authorities. The provisions stipulate that:

- a. For taxpayers
 - Taxpayers can carry out their taxation rights and obligations electronically using digital signature in accordance with the law governing electronic information and transactions.
 - The digital signature can be non-certified or certified through the issuance of electronic certificate by an authorised party that is appointed by the MoF.
- b. For the tax authorities
 - Tax authorities can issue decisions or assessments electronically using digital signature, which are as legally binding as the hardcopy ones. If these documents have been issued electronically, no hardcopy document is issued.
 - The sending or receipt date is the sending date based on the Directorate General of Taxation (DGT) administration system or other system that is integrated with the DGT system.

GR-9 did not elaborate the details on the scope of taxation rights and obligations which can be carried out electronically using digital signature. Further implementing provisions will be governed in a separate MoF regulation.

4. Transitional rules

GR-9 provide several transitional rules for the application of the changes under the Omnibus Law where the cut-off is using the effective date of the Omnibus Law, i.e. 2 November 2020. These transitional provisions include:

- a. For any:
 - Tax Assessment/Tax Collection Letters that were issued; or
 - Voluntary Disclosure on Incorrect Tax Return that was submitted since 2 November 2020, whereby the interest penalty is calculated from periods prior to 2 November 2020, the interest rate is using the MoF Interest Rate for November 2020 period.
- b. For Voluntary Disclosure after a Preliminary Evidence Tax Audit has started, the 100% (previously 150%) penalty on the tax underpayment will apply on the Voluntary Disclosure that is filed since 2 November 2020.
- c. The penalty of three times (previously four times) of the tax underpayment that must be paid by a taxpayer requesting to stop a tax investigation will apply for a request that is filed starting 2 November 2020.
- d. For taxpayer who did not issue or late in issuing VAT invoice or issued incomplete VAT invoice, the penalty of 1% (previously 2%) of VAT imposition base will apply on Tax Collection Letters issued starting 2 November 2020. However, specifically for non-retailer PKP who issued VAT invoice without filling out the identity of the buyer/service recipient, they will not be imposed with this penalty up to 30 days of the effective date of this GR-9, i.e. 4 March 2021.
- e. For interest compensation to be paid based on decisions that were issued starting 2 November 2020, whereby the interest is calculated from periods prior to 2 November 2020, the interest rate is using the MoF Interest Rate for November 2020 period.
- f. Input VAT on pre-production stage which must be repaid because the PKP has failed to produce, which has not been repaid until 2 November 2020, will be collected using a Tax Assessment Letter (previously using a Tax Collection Letter).
- g. Interest compensation which should not have been paid to a taxpayer, which has not been repaid by the taxpayer until 2 November 2020, will be collected using a Tax Collection Letter (this mechanism was not governed in GR-74).



Your PwC Indonesia contacts:

Adi Pratikto

adi.pratikto@pwc.com

Antonius Sanyojaya

antonius.sanyojaya@pwc.com

Ay Tjhing Phan

ay.tjhing.phan@pwc.com

Brian Arnold

brian.arnold@pwc.com

Melli Darsa

melli.darsa@pwc.com

www.pwc.com/id



PwC Indonesia



@PwC_Indonesia

If you would like to be removed from this mailing list, please reply and write UNSUBSCRIBE in the subject line, or send an email to id_contactus@pwc.com

DISCLAIMER: This content is for general information purposes only, and should not be used as a substitute for consultation with professional advisors.

© 2021 PwC. All rights reserved. PwC refers to the PwC network and/or one or more of its member firms, each of which is a separate legal entity. Please see <http://www.pwc.com/structure> for further details.